

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

DOCKET NO. 20-CR-045-F

Plaintiff,

Volume I (Partial)  
Pages 1- 31

VS.

CODY DONOVAN SMITH,

## Cheyenne, Wyoming

Defendant.

May 10, 2021  
4:19 p.m.

TRANSCRIPT OF TRIAL PROCEEDINGS  
OPENING STATEMENTS AND DIRECT EXAMINATION OF JACOB OLSON

BEFORE THE HONORABLE NANCY D. FREUDENTHAL  
UNITED STATES DISTRICT JUDGE  
and a jury of twelve and two alternates

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Proceedings reported by stenotype reporter; transcript produced with Computer-Aided Transcription.

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1 (Proceedings commenced 8:30 a.m., May 10, 2021.)

2 (Pretrial Proceedings and jury selection not transcribed.)

3 \* \* \* \* \*

4 THE COURT: Thank you.

5 Is the Government ready for its opening statement?

6 MS. MARTENS: It is, Your Honor.

7 THE COURT: Ms. Martens, please proceed.

8 MS. MARTENS: Ladies and gentlemen, the evidence will  
9 show that Cody Smith kidnapped and perpetrated abusive sexual  
10 contact against Hannah Bye. In the fall of 2019, Ms. Bye was a  
11 freshman at Brigham Young University and finishing her summer  
12 semester in Rexburg, Idaho. Rexburg is approximately 85 miles  
13 from West Yellowstone, which is right on the edge of  
14 Yellowstone National Park.

15 Ms. Bye had just finished high school and moved to  
16 Rexburg from Texas. She was new in town and just like any  
17 teenaged girl out on her own for the very first time, she was  
18 exploring life and making friends.

19 She was taking classes and living with five other  
20 young women in apartment-style university housing. And like  
21 most people, especially young people, she relied heavily on her  
22 phone.

23 Tinder is a dating application with a geofence  
24 feature. That means that it limits the people it matches you  
25 with to those in a geographic area, which makes it a pretty

1 handy tool to meet people nearby. That's how Ms. Bye met the  
2 defendant on September 6th, 2019.

3 The pair engaged in fairly innocuous conversation over  
4 the application. The evidence will show that the defendant  
5 told her that he was in Yellowstone National Park and asked her  
6 to join him.

7 She said she couldn't, but, instead, that they could  
8 meet up and they could hang out. Eventually, the pair made  
9 plans to meet on the evening of Saturday, September 7th, 2019.

10 That Saturday, Ms. Bye went about her business. She  
11 met another young man. They ate frozen yogurt, played  
12 basketball. She talked to her roommates about her outing and  
13 her upcoming outing with the defendant. She talked about how  
14 he wanted her to go to Yellowstone National Park, but she  
15 couldn't. Instead, she intended to simply get some food, and  
16 she would be back in a little while.

17 As planned, the defendant picked her up outside of her  
18 apartment around 10:00 p.m. He drove her to the McDonald's,  
19 and they went through the drive-through. All the while he was  
20 urging her to go to Yellowstone National Park with him, but she  
21 didn't want to go. As they left the parking lot, instead of  
22 turning toward her apartment, he turned toward the Park.  
23 Ms. Bye protested: "I can't go. I don't want to go, I'm  
24 uncomfortable," and so on. But he kept driving.

25 At some point in the drive, he put a knife in the

1 center console. He didn't wave it at her, but he made sure she  
2 knew it was there. Ms. Bye got the message, nonetheless.

3           Meanwhile, back at the apartment, her roommates stayed  
4 up late and watched a movie. Just before midnight they started  
5 to worry. She was supposed to be home by now. BYU Idaho has a  
6 midnight curfew for its students. She should have been home by  
7 now.

8           So, one of the roommates texted to check in. Sitting  
9 there, next to the defendant, in the passenger seat of his car  
10 with her phone in view, she answers that she's okay. But she  
11 was not okay. While she probably didn't comprehend the  
12 magnitude of what was happening, she was scared.

13           Somewhere in the drive, the defendant takes her phone  
14 away from her. They arrive in Yellowstone National Park. The  
15 tent is set up. It is dark, it is cold. She gets her phone  
16 back, but there's no cell service. It is an established  
17 campground, but she doesn't see any other people.

18           Not knowing what else to do, she goes in the tent.  
19 She tells the defendant that she's tired and she's cold, and  
20 she just wants to sleep. But he won't take no for an answer.

21           Despite her protestations, he puts his hands in her  
22 shorts and up her sweatshirt. He kisses her. He bites her.  
23 He chokes her. He holds her down. He even dry humps her until  
24 he ejaculates, all the while she says no and asks him to stop.

25           Meanwhile, back at the apartment, her roommates are

1 missing her. They call parents to seek advice, and the advice  
2 is generally not to panic. Teenage girls have been out past  
3 curfew before. Relax. But with Ms. Bye not home by 5:00 a.m.,  
4 they are panicking.

5           They call 911, and they report her missing. One of  
6 the roommates figures out that they can track her on Snapchat,  
7 and they can see that she's in Yellowstone National Park.

8           Back in the Park, it is morning. Ms. Bye reminds the  
9 defendant that she needs to go home. She asks, tired and cold,  
10 if she can sit in the car. And the defendant lets her, but he  
11 won't let her have the keys.

12           She sits there while he packs up the tent, and then  
13 they leave the Park. A little after 8:00 a.m., she gets cell  
14 service, and she begins to communicate with her roommates.  
15 Using Snapchat, she tells them that she is in trouble.

16           The roommates devise a plan. They're trying to  
17 intercept her when she gets back to Rexburg so that they can  
18 get his license plate; but, when they get back to Rexburg, the  
19 defendant drops her off just short of campus, so the roommates  
20 miss the drop-off. Nonetheless, minutes later they pick her  
21 up, and they take her straight to the police department, where  
22 she reports what happened to her, that the defendant took her  
23 to Yellowstone National Park against her will, touched her  
24 sexually over her protestations, all while using force against  
25 her.

1 Ladies and gentlemen, the evidence will show that the  
2 defendant did those things, and the Government will be asking  
3 you for a guilty verdict.

4 THE COURT: Thank you, Ms. Martens.

5 Counsel for defendant, do you wish to make an opening  
6 statement now, or you may defer?

7 MR. FREEBURG: Your Honor, we would wish to make an  
8 opening statement now.

9 Thank you.

10 THE COURT: Please proceed, Mr. Freeburg.

11 MR. FREEBURG: May it please the Court.

12 THE COURT: Counsel.

13 MR. FREEBURG: The Government.

14 Members of the jury, the prosecution, the Government,  
15 and I agree that the Government's job throughout this trial is  
16 to rule out reasonable doubt, so I am going to begin by  
17 highlighting the evidence that shows reasonable doubt. And I  
18 don't want to waste any time. I want to get right to it.

19 THE COURT: Ms. Martens -- hang on.

20 You're certainly free to relocate so that you can see  
21 what's being displayed to the jury. I usually say that just so  
22 you don't feel like someone is getting in your space.

23 Ms. Martens?

24 Excuse the interruption, Mr. Freeburg.

25 MR. FREEBURG: Thank you, Your Honor.



1 MS. MARTENS: I think I can see. Thank you.

2 MR. FREEBURG: This is a photograph. This is a  
3 photograph of the alleged victim, Hannah Bye, taken at 12:50 in  
4 the morning in the Yellowstone bathroom 50 minutes after her  
5 curfew. She's got her thumbs up. She's got a smile on her  
6 face, and we don't know what she's doing with it. Is she  
7 texting it? Is it a selfie? Is that photo an accident? At  
8 one point, she claims that the defendant was actually in the  
9 bathroom with her.

10 There's one more photo. The evidence will show that  
11 this photo was also taken in the Yellowstone bathroom just a  
12 split second later. In this one, it is the peace sign, not the  
13 thumbs up. That's the difference.

14 What does this photo tell us about how she's feeling  
15 at that time? What's going on in her head? Who is she sending  
16 it to? Is she in communication with someone?

17 And then the person in the middle right there is  
18 Mr. Jacob Olson. He's a Special Agent for the Government for  
19 the National Park Service, which means he's coordinating all  
20 the law enforcement officers, all of the investigation, and  
21 this photo was taken that night, September 7th, 2019. She --  
22 her roommates report it to the police. She goes to the police  
23 that morning, I guess September 8th. But Mr. Olson doesn't  
24 actually see this photo until November 2020. It was deleted  
25 off of her phone.

1           So why is the alleged victim, in communication with  
2 law enforcement office, deleting this particular photo when  
3 she's in Yellowstone, supposedly being kidnapped?

4           So I want to get right to the reasonable doubt, and I  
5 think that photo is a big part of reasonable doubt. So let's  
6 take things forward and set this in chronological context.

7           Ms. Bye is 19 years old, 18 years old. She graduated  
8 from high school, I think, in June. She had moved to Rexburg  
9 to go to Brigham Young University. It is a school affiliated  
10 with the LDS church and faith.

11           And the only reason we're bringing that up is because  
12 there's an honor code that goes with it, and there's an honor  
13 code that goes with being a student at that school. And you  
14 sign a document, and you actually get what's called an  
15 ecclesiastical commendation to go to that school. So a bishop  
16 has to sign off every so often that you're complying with the  
17 honor code.

18           And one of the things that's interesting is if you  
19 know someone else is violating the honor code, you're supposed  
20 to 'fess up, let people know that you know something is going  
21 on that's not okay. So her roommates were actually in a  
22 particular position where they needed to disclose what was  
23 going on.

24           Anyway, she goes to BYU. She's at Rexburg. She's  
25 there that summer, July '19 -- 2019, August 2019, September

1 2019. She's using Tinder to meet folks. One of the folks she  
2 meets, sitting right there, is Cody Smith (indicating), and he  
3 was on a trip that summer before starting his career.

4 And so they matched on Tinder. They messaged. And it  
5 is interesting in those messages, so they -- let's just be  
6 straight on the dates. They messaged, I think, on Friday the  
7 6th. So Labor Day is the -- is the Monday, right, Monday the  
8 2nd. They message first on Tinder on Friday the 6th, and then  
9 they meet up on Saturday the 7th. He picks her up at about  
10 10:00 p.m. But on the 6th and the 7th, they're messaging via  
11 Tinder, and they're also talking on the phone.

12 And those Tinder messages are interesting because she  
13 actually says she wants to go to Yellowstone. He offers  
14 because he's in Yellowstone, okay, and he's going to go to  
15 Boise the next day, so he would drive through Rexburg. You  
16 take -- anyway, you take 15, you go down to 84, and you're in  
17 Boise anyway.

18 So they don't actually meet for lunch, which is on his  
19 way, on Sunday. Instead, they meet at 10:00 p.m. on Saturday  
20 night, and she has him pick her up not near the apartment, not  
21 near her apartment with the roommates, and they go to  
22 McDonald's and they start talking.

23 And then they go to -- they go to Yellowstone. So  
24 Cody is staying at the Norris campground, so if you're heading  
25 into Yellowstone from West Yellowstone, the

1 Norris Campground is north of the Madison Junctions. So you  
2 enter the Park, you go toward the Madison Junction. If you go  
3 right, or south, then you're heading back to the geyser basin  
4 where Old Faithful is, Grand Prismatic.

5 If you go left, or north, then you're going toward  
6 Gardiner, Mammoth, sort of the north middle third of the Park  
7 is where the Norris Campground is.

8 This is the Saturday night -- excuse me -- yes,  
9 Saturday morning, Friday night -- let's just be real  
10 specific -- night of the 7th, morning of the 8th -- anyway --  
11 and it is right after the holiday weekend. I think there's  
12 something like 90 campsites in that particular campground.  
13 There's a pay phone. There's a pay phone. It is next to a  
14 floodlight. The bathroom has an exterior light on it.

15 There's a campground host. It is a fairly populated  
16 campground for being in the middle of Yellowstone National  
17 Park.

18 Oh, let's talk about that drive up to Yellowstone. I  
19 think there was some comments about around 11:50 she's texting  
20 her roommates, and the reason 11:50 is important is because it  
21 is ten minutes before the curfew, but that text exchange is  
22 something along the lines of, "You good, Hannah?" "Yeah, I'm  
23 good." "Did you kiss him yet?" "No." "Ha-ha-ha, you're so  
24 funny, JK."

25 So these are text messages that she's sending after

1 she's been in that car about an hour, just based on cell phones  
2 and how long it takes to get up there. So she's joking with  
3 her roommates while she's in that vehicle.

4           Anyway, they get to the campground, and that's when  
5 she goes in that bathroom. You know, there's actually WiFi at  
6 that campground. There's a sign that's got the three little  
7 bars, like on the corner of your computer where it shows if  
8 there's WiFi or not. It doesn't make a difference, but she  
9 didn't appear to use WiFi.

10           So after that, after she's in the bathroom, they go  
11 into the tent. And what happens in the tent changes a couple  
12 times. It is clear that they make out. She says she told him  
13 no. She told him no to some of it or all of it. Sometimes it  
14 is, "No, your hands are cold. No, I'm on my period." They  
15 talk about sex. She tells him she's a virgin, and apparently  
16 he says, "Oh, you're missing out."

17           What else do we know? In the tent, there's no  
18 allegations that anybody is drinking alcohol. There's no  
19 allegations that he's drinking alcohol, that she's drinking  
20 alcohol. He doesn't penetrate her. Doesn't take off her  
21 shorts. Doesn't expose himself. At one point, she says she  
22 uses a stern voice and tells him to stop and then he stops.

23           He gets annoyed with her, according to her. They go  
24 to sleep. They set an alarm, because if this is an alleged  
25 kidnapping, it needs to end on schedule. They set an alarm and

1 end -- and he wakes up at 7:00 a.m. and drives her back to  
2 Rexburg. Takes him 30 minutes to check out because you've got  
3 to check out with the campground host; you've got to pack up  
4 your tent.

5 7:00 a.m. in Yellowstone, there's all these people  
6 around. There's no evidence that you will hear that she talked  
7 to anybody, she went up to a family and said, "Hey, I'm having  
8 a problem. Can you help me out?" No evidence of that.

9 Instead, what happens is she gets back in the car with  
10 him, and she gets dropped off at her apartment or near her  
11 apartment, but on that drive back, she finds out that her  
12 friends have already called the sheriff, and now the train is  
13 out of the station. It is a runaway train, and here we are.

14 Things go out of control. She makes a report. She's  
15 encouraged to press charges. She talks to a Rexburg sheriff.  
16 She talks to Special Agent Olson here, I think, four times, and  
17 then it is only in November that he finds out about that photo.

18 And at the end of trial, your task is to judge whether  
19 there is kidnapping or abusive sexual conduct or anything  
20 beyond a bad date, anything proved beyond a reasonable doubt.  
21 And you're going to be judging the credibility of these  
22 witnesses, and you're going to be looking at their evidence and  
23 what they say and the enormous pressures a young woman is under  
24 when she's subject to that honor code.

25 And we will ask that you return the verdict that your

1 oath requires, not proven beyond a reasonable doubt, not  
2 guilty.

3 THE COURT: Thank you, Mr. Freeburg.

4 The Government may call its first witness.

5 MS. MARTENS: Your Honor, as a preliminary matter, I  
6 would like to move for admission of the parties' joint  
7 stipulations into evidence. I have it here marked  
8 Exhibit 1001.

9 THE COURT: Hearing no objection to the motion to  
10 admit the joint stipulations, Exhibit -- Government Exhibit  
11 1001 admitted.

12 (Government's Exhibit 1001 received.)

13 MS. MARTENS: Thank you, your Honor.

14 Your Honor, the Government would like to call Special  
15 Agent Jake Olson to the stand.

16 THE COURT: Agent Olson, if you would step forward to  
17 be sworn, please. Thank you.

18 (Witness sworn.)

19 COURTROOM DEPUTY: Sir, if you could please state and  
20 spell your name for the record.

21 THE WITNESS: My name is Jake Olson, Jacob Olson.  
22 J-a-c-o-b, O-l-s-o-n.

23 **JACOB OLSON, PLAINTIFF'S WITNESS, DIRECT EXAMINATION**

24 **BY MS. MARTENS:**

25 **Q.** Special Agent Olson, where is it that you work?

1     **A.**   I am having a hard time hearing you, ma'am.   I'm sorry.

2                 MS. MARTENS:   May I?

3                 THE COURT:   Yes, you may.

4                 MS. MARTENS:   Thank you, your Honor.

5                 Oh, that's better.

6     **BY MS. MARTENS:**

7     **Q.**   Special Agent Olson, where is it that you work?

8     **A.**   I work in -- Yellowstone National Park is where my office  
9     is.

10    **Q.**   And who do you work for?

11    **A.**   I work for the National Park Service.

12    **Q.**   In what capacity?

13    **A.**   I work as a Special Agent.

14    **Q.**   So when I think of the Park Service, I think of folks who  
15    are taking tickets for campsites, rangers who are walking  
16    around the park, but you said you're a Special Agent, right?

17    **A.**   Correct.

18    **Q.**   Can you explain a little bit about law enforcement and the  
19    National Park Service?

20    **A.**   Sure.   The National Park Service, because of the way it was  
21    created, it has patrolmen, just like you would see in a city or  
22    a county, so uniformed patrol which would be considered the  
23    Park Rangers.   And then they have Special Agents, which would  
24    kind of be the equivalent of a detective, what most folks are  
25    familiar with.



1 Q. And how long have you been with the Park Service?

2 A. Since 2006 in law enforcement.

3 Q. Did you -- what law enforcement role did you start in?

4 A. I started out as a patrol officer, started out as a  
5 seasonal ranger for the first couple years. So that's a -- you  
6 work intermittently six -- six months at a time, usually. And  
7 I worked at, I think, four different parks in the first two  
8 years.

9 Q. Why was that?

10 A. They encourage you to move around to get different  
11 experience, experience different parks, different kinds of law  
12 enforcement.

13 Q. Did you have any training for that level of law  
14 enforcement?

15 A. I did. I went to Santa Rosa Junior College for that.

16 Q. And what sorts of things did you learn?

17 A. That was just -- the junior college was like a basic  
18 policing course, so that was after, you know, my regular  
19 college, I went there. And that was kind of the introduction  
20 to law enforcement and how to conduct basic investigations and  
21 just basic policing tactics.

22 Q. And what sorts of cases does a seasonal ranger investigate?

23 A. Almost exclusively misdemeanors for the most part, so your  
24 traffic violations, your simple assaults, alcohol violations,  
25 camping violations, things like that.

1 Q. So you're obviously not a seasonal ranger anymore. When  
2 did that position change for you?

3 A. I became a permanent ranger, I think it was, 2008, and that  
4 means I could go somewhere and stay there full time, you know,  
5 get all the benefits and things like that.

6 So I became a permanent ranger in 2008.

7 Q. And how is a permanent ranger different than a seasonal  
8 ranger?

9 A. When you become a permanent ranger, you can be in charge of  
10 investigating, or once you complete the Federal Law Enforcement  
11 Training Center training, you can be in charge of investigating  
12 felonies by yourself rather than just assisting, as I was with  
13 the seasonal job.

14 Q. What sorts of crimes did you investigate as a permanent  
15 ranger?

16 A. All kinds. So lots of narcotics, narcotics distribution or  
17 possession, all kinds of driving-related ones, like DUIs and --  
18 all kinds of stuff, assaults, and all those different types.

19 Q. You mentioned something about additional training. As a  
20 permanent ranger, did you receive additional training?

21 A. I did. In 2010, I went to the Federal Law Enforcement  
22 Training Center.

23 Q. What is that?

24 A. That is kind of the standard for federal law enforcement.  
25 So you go there for approximately four months. You get more

1 police training, little bit more advanced than the seasonal  
2 training. You deal with all kinds of different trainings, in  
3 regards like evidence handling, patrol tactics, control  
4 tactics, driving, shooting, all kinds of things.

5 Q. Let's focus a little bit on evidence handling. What sorts  
6 of training have you received in handling evidence?

7 A. Starting out at the Federal Law Enforcement Training  
8 Center, you get a pretty extensive course in regards to  
9 handling evidence, whether that be physical evidence or trace  
10 evidence, meaning DNA and things like that, electronic  
11 evidence.

12 And then I went back to the Federal Law Enforcement  
13 Training Center again once I became a Special Agent and had  
14 additional training in that to include more of the specialized  
15 training in evidence handling with trace evidence and physical  
16 evidence collection and all that.

17 Q. So when you're talking about physical evidence collection  
18 and handling, let's break that down just a little bit.

19 What sorts of physical evidence have you been trained  
20 to collect?

21 A. Oh, so if you go on a crime scene, it could be anything  
22 from, you know, a traffic accident where there's physical  
23 evidence available or if there's perhaps like let's say an  
24 assault, physical evidence would include, you know, clothing,  
25 tools that were used in the crime, cell phones, DNA evidence,

1 those kinds of things.

2 Q. So you've been trained to collect all of those types of  
3 evidence?

4 A. Correct.

5 Q. What about handling that kind of evidence?

6 A. That's included in the training as well.

7 Q. So you mentioned that you did the original course at the  
8 Federal Law Enforcement Training Center in 2010?

9 A. I believe so, yes.

10 Q. And then when did you do the more extensive course?

11 A. I believe that was 2015.

12 Q. So where was it that you were working as a permanent ranger  
13 during these times?

14 A. So at that time I was working as a permanent ranger in  
15 Yosemite National Park, which is out in California, and I was  
16 working as a patrol officer or patrol ranger at the time. I  
17 took a temporary assignment or a temporary detail into the  
18 Investigative Services Branch to do more focused investigations  
19 like I do now. And after that detail, I got picked up full  
20 time in that job and was sent to that training.

21 Q. What is the Investigative Services Branch?

22 A. The Investigative Services Branch is a group of  
23 approximately 30 Special Agents throughout the National Park  
24 Service. We work in regions, so I keep an office in  
25 Yellowstone, but I can kind of respond all over the west. So

1 my area of responsibility is, like, Alaska to Arkansas, along  
2 with a few of my peers.

3 And we do more of that focused, long-term kind of  
4 complex investigations, mostly felonies, and it would be the  
5 equivalent to, like I said, a detective.

6 Q. So when you say you did some assignments with the Special  
7 Investigations Branch, what does that mean?

8 A. Yeah, the Investigative Services Branch allowed me to come  
9 on as a patrol officer and get experience doing assisting with  
10 and starting to lead some of those more complex investigations.  
11 So for me, it started with a lot of the narcotics distribution  
12 stuff or illegal growing operations in national parks by -- you  
13 know, big marijuana gardens and stuff like that.

14 Q. And when did you become full time with the special  
15 investigative -- or I'm fumbling that -- Investigative  
16 Services?

17 A. Yeah, the Investigative Services Branch, yeah, I believe  
18 that was 2015.

19 Q. And you mentioned Yellowstone. When did you move into  
20 Yellowstone?

21 A. I believe I moved to Yellowstone in 2017. When I left  
22 Yosemite, there was an opening in Montana, which I was looking  
23 forward to getting back to, and that's where I ended up  
24 transferring to, where I reside now.

25 Q. And during your time in Yellowstone, have you become

1 familiar with the Park?

2 A. I have.

3 Q. In what ways?

4 A. Like I said, I work -- I work regionally, so I work all  
5 over the place, but a lot of my cases do come out of  
6 Yellowstone. So I'm able to travel through the Park for work  
7 and respond to different areas for work pretty often.

8 You know, I live in the general area, recreate in the  
9 general area, so --

10 Q. Are you, therefore, familiar with the boundaries of the  
11 Park?

12 A. I am.

13 Q. Campgrounds in the Park?

14 A. Yes.

15 Q. And then you're in Yellowstone with your same job with  
16 special investigations, right?

17 A. Yes.

18 Q. In terms of the role of federal law enforcement in the  
19 Park, what do you know about that?

20 A. Well, depending on what park you're in, there's different  
21 kinds of jurisdiction; but Yellowstone in particular is what is  
22 referred to as an exclusive jurisdiction, so the only law  
23 enforcement that takes place in that park, whether it is the  
24 traffic tickets or parking tickets all the way up to, you know,  
25 the felony-level investigations, will be managed by the

1 National Park Service because it is a land management agency  
2 that was created by Congress, and I think Yellowstone was maybe  
3 even before the state of Wyoming was, so --

4 Q. I skipped over this, but we talked some about evidence  
5 handling. I want to go back to your training to do with  
6 electronic evidence.

7 A. Okay.

8 Q. What sorts of training have you received regarding  
9 electronic evidence?

10 A. Mostly the training for handling electronic evidence is  
11 just how to properly obtain it, secure it, and then be able to  
12 transfer it to someone else that can look at it that's much  
13 more specialized than myself.

14 Q. And so when you do those sorts of things, what is it that  
15 you hope to accomplish?

16 A. I hope to -- the idea is to obtain the evidence and be able  
17 to secure it in a way that kind of preserves it in the fashion  
18 that you found it and then be able to present it to a  
19 specialist to look at later.

20 Q. When we're looking at your familiarity with Yellowstone  
21 National Park, you said that you were familiar with its  
22 boundaries.

23 How about cell service in the Park?

24 A. Cell service is spotty in Yellowstone National Park.

25 Q. And how do you know that?

1    **A.**   Just from being around it a lot and traveling through it.

2    **Q.**   What about the lighting in the Park?

3    **A.**   Uhm, the lighting in the Park, you know, depending on where  
4    you're at, tends to be pretty dim.  So, you know, Yellowstone  
5    is -- they've actually made an initiative to try to keep it  
6    darker.  Obviously, Yellowstone, people are attempting to go  
7    there to get away from things, so they're trying to keep it  
8    more of a wilderness area and experience, so there's all kinds  
9    of stuff that Yellowstone's done to, you know, kind of reduce  
10   the light pollution.

11   **Q.**   Like what?

12   **A.**   They change fixtures so they point directly down, like  
13   light fixtures that point directly down.  They've changed --  
14   they've removed light fixtures, you know, big -- big  
15   illuminated areas that didn't need to be illuminated they got  
16   rid of.

17   **Q.**   How does a person enter or leave the Park?

18   **A.**   Uhm, there's multiple entrances to the Park.

19               On the north, as mentioned prior, that's that Gardiner  
20   entrance on the north side coming from Montana.  On the east  
21   side, that's the Cody entrance, so that kind of comes through  
22   the east side of the park.  The south entrance kind of comes up  
23   from the Tetons area, and then the west entrance comes from  
24   West Yellowstone, which is Montana, and then it goes into  
25   Wyoming pretty quickly.



1 Q. And particularly the west entrance --

2 A. Yes.

3 Q. -- what do we find there?

4 A. The west entrance, you know, is a multi-lane entrance that  
5 has a building there where people drive up and, you know, pay  
6 their fee to access or show their pass, and then on the other  
7 side, there's some lanes to leave the Park.

8 Q. Is there any equipment or --

9 A. Yeah, there's --

10 Q. -- anything special at the entrance?

11 A. Yeah, so there's -- you know, it's a lighted building.  
12 They've got all kinds of different tech equipment that's there.  
13 They have license plate readers that are mounted there at the  
14 west entrance. You know, they have buildings with computers  
15 and things like that to process all the fees.

16 Q. You mentioned license plate readers. What do you know  
17 about those?

18 A. Yellowstone utilizes or utilized license plate readers at  
19 the time, at the time that we're talking about, anyway. And  
20 they had some of those mounted at West Yellowstone entrance.

21 Q. And do they catch every single license plate that passes  
22 through them every single time?

23 A. No, no. Different factors play into that, from what I  
24 understand, to include environmental factors, nighttime,  
25 daytime, you know, reflection of a license plate, things like

1 that.

2 Q. I want to turn your attention to the allegations in this  
3 case.

4 How is it that you're related to this case?

5 A. I am the lead investigator for this case.

6 Q. And so you're familiar with the indictment and the  
7 allegations?

8 A. I am.

9 Q. So how did this case come to you?

10 A. This case came to me via my supervisor after he was alerted  
11 to it from Rexburg Police Department.

12 Q. And briefly, why or what did you receive from Rexburg?

13 A. We received -- are you referencing the story or kind of  
14 like --

15 Q. Well, at that time, what sort of material did you receive?

16 A. So at the time, we received a report from Rexburg Police  
17 Department to include a written report, a recorded report or  
18 recorded interview, and just a statement from the detectives on  
19 scene that alleged that Ms. Bye --

20 THE COURT: Sir, hang on. I think the question was  
21 what materials.

22 THE WITNESS: Okay. Sorry.

23 THE COURT: So you can follow up.

24 MS. MARTENS: Thank you, your Honor.

25 BY MS. MARTENS:

1 Q. So when you received those materials, did you review them?

2 A. I did.

3 Q. And what did you do after you reviewed them?

4 A. I contacted the police department and contacted multiple  
5 people involved to follow up on what I was told.

6 Q. Did you make any sort of plan?

7 A. Yeah, I created an investigation plan at that point.

8 Q. Can you explain a little bit about what an investigation  
9 plan is?

10 A. Yes. So depending on what the crime is or how the  
11 investigation is going to go, the investigation plan just kind  
12 of helps outline what needs to be done to get all -- as many  
13 facts that are available as possible. So sometimes that  
14 includes interviews; it includes physical evidence; it includes  
15 statements, things like that.

16 Q. And how is it that you create an investigative plan?

17 A. Based on what I'm told, so based on the allegations that  
18 are given.

19 Q. Why is that?

20 A. Because that helps kind of tailor the information that you  
21 need. So, you know, depending on what the allegation is will  
22 help tailor how fast or slow or what's priority and what's not  
23 priority, things like that.

24 Q. Does it determine where you look?

25 A. Yes.

1 Q. Or for what kinds of evidence you look for?

2 A. Yes.

3 Q. Why?

4 A. Because certain evidence can go away fairly quickly. So,  
5 you know, there's digital evidence that vanishes fairly  
6 quickly. There's trace evidence that goes away fairly quickly,  
7 depending on what it is exposed to.

8 So, you know, just depending on what the allegations  
9 are and what the evidence is kind of helps dictate what needs  
10 to happen.

11 Q. And so we've already talked about how the allegations in  
12 this case are kidnapping and sexual assault.

13 In that type of case, what are typical things you're  
14 going to be looking for in your investigative plan?

15 A. I would be looking for interviews to talk to, you know, the  
16 alleged victim, the alleged perpetrator. I would be looking  
17 for trace evidence. So particularly with sexual assaults, DNA  
18 evidence tends to be really important if it can be found.

19 I'm also looking for evidence and kind of like context  
20 of the meet-up, so conversations that took place before,  
21 during, after, so a lot of times that's on a cell phone, things  
22 like that.

23 Q. So electronic evidence?

24 A. Yes.

25 Q. What types of electronic evidence might you look for?

1   **A.** Particularly the cell phone tends to be where a lot of that  
2   evidence shows up. So, you know, obviously electronic evidence  
3   could include recordings as well, you know, but like the  
4   license plate readers and things like that.

5               But the phone, in particular, tends to show the most.  
6   So it can show previous calls, you know, text messages, GPS  
7   coordinates, depending on what applications are running and  
8   things like that.

9   **Q.** So you received this batch of material from Rexburg. You  
10  reviewed it. And what was your investigative plan in this  
11  case?

12  **A.** My investigative plan was to conduct interviews of the  
13  alleged victim, the alleged perpetrator; to contact the officer  
14  that took the original report, the detective that took the  
15  original report; to try to collect any cell phone evidence that  
16  was available, whether that's actual cell phones or cell phone  
17  provider evidence; try to collect the trace evidence and  
18  physical evidence that was available.

19  **Q.** What were some of the first steps you took to execute that  
20  plan?

21  **A.** I contacted Rexburg Police Department, spoke to the  
22  detective. I reviewed the report and the recording that was  
23  provided to me. I attempted to interview Ms. Bye, or I did  
24  interview Ms. Bye. I attempted to interview Mr. Smith,  
25  interview all of the other collateral people or witnesses that,

1 you know, that would be privy to the situation.

2 Q. What about beginning evidence collection? Did you look for  
3 physical evidence?

4 A. Yes. Pretty quickly, right after I was alerted to this  
5 one, we went to obtain the physical evidence. It was mentioned  
6 before, like the trace evidence, so the clothing that was worn  
7 during the encounter.

8 Q. And do you know how that was collected?

9 A. Yeah. The victim advocate at the time went down there to  
10 deal with or to talk to the victim, and the victim advocate was  
11 able to obtain that and provide it to a ranger.

12 Q. And you mentioned interviews. So what were some of those  
13 first interviews that you conducted?

14 A. The first few interviews -- I'm not sure this is in  
15 chronological order -- but was Ms. Bye, Mr. Smith, Ms. Bye's  
16 roommates -- I think there was five roommates, and then two  
17 additional friends that were present and privy to the  
18 situation, Ms. Bye's mother, and I'm trying to think who  
19 else -- oh, the -- a church person that was contacted, a member  
20 of the church that was contacted.

21 THE COURT: Ms. Martens, there's probably no handy  
22 place to stop in the direct with Agent Olson. Would this be  
23 reasonable?

24 MS. MARTENS: I think it's as good as any, your Honor.

25 THE COURT: Thank you.

1           To the jury, again, remember the admonition against  
2 discussing this case with anyone, including each other. Please  
3 don't do any research about this case or this type of case or  
4 the individuals involved in the case.

5           We have just started the presentation of evidence, so  
6 as we go along, please keep an open mind until all the evidence  
7 is in.

8           You will be recessed out of this door where Abby will  
9 meet with you and split you for social distancing purposes into  
10 two jury rooms. I appreciate your patience because that will  
11 take you a bit after 5:00. So thank you for that patience and  
12 for your patience throughout the course of today through jury  
13 selection.

14           Anything for the attorneys before we recess the jury?

15           MS. MARTENS: Nothing from the Government, Your Honor.

16           THE COURT: For defendant?

17           MR. HUGUS: Nothing for the defendant.

18           THE COURT: Please stand for the jury to recess.

19           Oh, please be ready to report to the jury room -- be  
20 ready to report to the courtroom from the jury room at 8:30  
21 tomorrow morning. So we will stand in recess until 8:30.

22           (Following out of the presence of the jury.)

23           THE WITNESS: May I step down?

24           THE COURT: Yes.

25           Anything requiring my attention?

1 MS. MARTENS: Nothing from the Government, Your Honor.

2 THE COURT: For the defendant?

3 MR. FREEBURG: Nothing from the defense, Your Honor.

4 Thank you.

5 THE COURT: All right. I am in chambers at 8:00 for  
6 each day of trial. If anything is required of me tomorrow  
7 morning to either shorten bench conferences or the like, just  
8 give us a shout, and I'll come into the courtroom and we can  
9 attend to matters before we bring the jury in.

10 The jury will be ready to report by 8:30, and so  
11 please be prompt so we can hopefully get the jury here and  
12 started up on time tomorrow morning.

13 Thank you for your patience through the course of  
14 today. It has been a long day. I appreciate your patience and  
15 courtesy.

16 We will stand in recess until 8:30 tomorrow morning.

17 MS. MARTENS: Thank you, Your Honor.

18 MR. FREEBURG: Thank you.

19 (Proceedings recessed 5:03 p.m., May 10, 2021.)

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C E R T I F I C A T E

I, JANET DAVIS, Federal Official Court Reporter for the United States District Court for the District of Wyoming, a Registered Diplomat Reporter, Federal Certified Realtime Reporter, and Certified Realtime Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein on the aforementioned subject on the date herein set forth, and that the foregoing pages constitute an excerpted true and correct transcript.

Dated this 10th day of May, 2021.

/s/ *Janet Davis*

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JANET DAVIS, RDR, FCRR, CRR  
Federal Official Court Reporter